

REMARKS

On page 2 of the final action, the Examiner regards an exhibit as an “object” and a video ID and time code as being “information about the object.”

Applicant agrees with the former, but disagrees with the latter. The video ID and time code are only *pointers* to information about an object. They are not *themselves* information about the object.

In an effort to more clearly distinguish between data that leads to information about an object and the actual information about an object, Applicant proposes to amend claim 1 to recite the retrieval of “data *embodiment information* concerning a selected object.” Similar amendments are proposed for the remaining independent claims.

Clearly, the videoID and time code of *Fitzsimmons* cannot be said to “embody” any information about the selected object. The video ID and time code are simply numbers that identify a particular location on the portable device’s disk drive. It is the file stored at that location that actually embodies information about the selected object.

The distinction between data that only *leads* to information about an object and data that actually *embodies* that information can be understood by considering how one might find information in a library.

Suppose one is searching for a book about the object “Mona Lisa.” Suppose there existed a book called “History of Mona Lisa” that contained within it “information about the object (i.e. the Mona Lisa”). Suppose further one learned that the call letters for that book were “387-MQR.”

According to the Examiner’s view, the call letters “387-MQR” are themselves “information about the object (Mona Lisa)”. But this is inconsistent with the fact that even under close scrutiny, the call letters “387-MQR” *by themselves* would teach nothing about the Mona Lisa.

The call letters “387-MQR” merely *point* to information about the Mona Lisa. But although they are intended to *lead* to information about the Mona Lisa, they are not *themselves*

information about the Mona Lisa. The call letters do not actually *embody* any information about the Mona Lisa. They are simply *pointers* that identify the location of something else that contains, or embodies, that information.

In the same way, the video ID is only a *pointer* to a video file. It is the video file that embodies information about an object, not the pointer. The video ID is *not itself* information about the object. The time code identifies a particular section of the video file, but it too is not *in itself* information about the object.

The Examiner appears to be proposing that a pointer to information about an object *is itself* information about the object. The difficulty with this proposition is that it has no natural stopping point, and can therefore lead to results that are inconsistent with common sense.

For example, under the Examiner's rule, "336 Concord Ave., Belmont 02478" would amount to "data embodying information concerning" the Mona Lisa.

The foregoing address identifies a public library that contains one or more books on the Mona Lisa. It is true that the address does not pinpoint a book with the same accuracy as the call letters "387-MQR." But the Examiner's proposition, namely that any information that may ultimately lead to information about an object *is itself* information about an object, is nevertheless satisfied.

The Examiner appears to be proposing a rule that says that "information leading to a thing" is equivalent to the thing itself. The Examiner applies this rule by noting that the videoID is "information leading to a video file" that contains information about an object. The Examiner concludes from this that the video ID is *itself* information about an object.

One clear difference between "information leading to a thing" and the thing itself is that the thing may not be where it is supposed to be. In Fitzsimmons, there is no guarantee that the video file identified by videoID will actually *be* on the portable device. In the case of a library, there is no guarantee that the book to which call letters point has not been checked out. In the case of a treasure map, there is no guarantee that the treasure has not already been dug up.

Applicant submits that under the proposed rule, there would no longer be a way to use the English language to articulate the difference between a pointer and the thing pointed to. The two would be regarded as entirely equivalent.

The Examiner's proposed rule of construction is clearly unreasonable and flies in the face of common sense. Since the rejection relies on this rule of construction, Applicant requests reconsideration and withdrawal of the section 102 rejection.

Accordingly, Applicant requests reconsideration of the finding that the *Fitzsimmons* video ID and time code amount to information about particular museum exhibits.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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